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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 GREGORY KACHMAN,

11 Plaintiff,

Case No.: 3:16-cv-00007

12 vs.

13 **DEMAND FOR JURY TRIAL**

14 WASHOE COUNTY DEPUTY SHERIFF
15 CHAD E. ROSS,

16 Defendant(s),
17 _____/

18 **COMPLAINT FOR DAMAGES AND DECLARATORY RELIEF FOR EXCESSIVE**
19 **FORCE BY A POLICE OFFICER**

20 **Introduction**

21 1. This action is brought by Plaintiff GREGORY KACHMAN (“Plaintiff”), by and
22 through the undersigned counsel, to secure redress for Defendant WASHOE COUNTY
23 DEPUTY SHERIFF CHAD E. ROSS’s (“Officer Ross” or “Defendant”) violation of the
24 Plaintiff’s civil right to be free from excessive force and for assault and battery.

25 **Jurisdiction and Venue**

26 2. This Court has jurisdiction of this action pursuant to 28 U.S.C. Sections 1331, 1343,
27 2201; 42 U.S.C. Sections 1983 and 1988; and associated state law claims.

28 3. Venue for filing this action is appropriate in the Northern Division of the District of
Nevada pursuant to 28 U.S.C. Section 1391(b) and Local Rule IA 8-1, as the transaction or
occurrence before the Court arose in this District.

Parties

4. Plaintiff is a resident of Sun Valley, Washoe County, Nevada.

5. Defendant is and at all relevant times was a Washoe County Deputy Sheriff acting under color of state law, and is sued individually.

6. Plaintiff alleges that the Defendant performed the acts averred herein, proximately causing the damages averred below and is liable to him for the damages and other relief sought herein.

Factual Allegations

7. Just before midnight on November 3, 2015, at 5544 Thorn Berry Court in Sun Valley, Washoe County, Nevada, (hereinafter “the home”) the Plaintiff and his live-in girlfriend Amanda Ferguson got into an argument.

8. The argument escalated, and the Plaintiff left the home in his truck. After the Plaintiff left the home Amanda Ferguson called her friend, Jamie Holloway over to the home. Jamie Holloway, along with Ms. Holloway’s daughter Selina Holloway and Jamie’s daughter Salena’s boyfriend Joey, whose precise identity is unknown to the Plaintiff at the time of filing of this Complaint, arrived at the home a short time later.

9. After Jamie Holloway and Amanda Ferguson saw the Plaintiff drive by the home several times, Jamie Holloway called the Washoe County Sheriff’s Department, because Amanda Ferguson was afraid of a confrontation with the Plaintiff.

10. A short time later, two Washoe County Sheriff’s Deputies then arrived at the home in two separate marked SUVs. One of the Deputies who arrived is the Defendant. The identity of the other Deputy Sheriff is not known to the Plaintiff at the time of filing of this Complaint. When the two Deputies arrived, Amanda Ferguson and Jamie Holloway explained the situation to the Deputies.

11. The Plaintiff then drove by the home, shortly after which one of the Deputies drove off to pursue the Plaintiff, while the Defendant stayed behind at the home.

12. The Plaintiff then drove his truck back to the home and stopped his truck in the street in front of the home facing a westerly direction.

1 13. The Defendant then approached the Plaintiff's truck and then began yelling
2 commands to the Plaintiff in a very aggressive manner to get out of the truck and to put his hands
3 up.

4 14. The Plaintiff then put his hands out of the truck, put his hands back in the truck, and
5 told the Defendant that he did not do anything wrong.

6 15. The Defendant then fired several shots into the Plaintiffs truck through the driver's
7 side door. At least one bullet from the Defendant's gun struck the Plaintiff in the spine. The
8 Defendant was standing in the driveway of the home, next to the driver's side door of the
9 Plaintiffs truck when the Defendant fired his gun into the Plaintiff's truck.

10 16. At least two eyewitness accounts, affidavits from which are attached hereto and
11 incorporated herein as Exhibits 1 and 2, indicate that the Plaintiff did not drive his truck at the
12 Defendant before the Defendant fired his gun into the Plaintiff's truck.

13 17. Upon being struck by the bullet from the Defendant's gun, the Plaintiff felt an instant
14 stinging nerve pain throughout his body and recalls being unable to control his body.

15 18. No longer able to control his body, the Plaintiff's truck then rolled down the decline
16 of Thorn Berry Court, eventually rolling over onto the driver's side door and then colliding with
17 another truck at the bottom of the street before coming to a stop. The Plaintiff recalls that
18 Officer Ross continued to fire his gun at the Plaintiff's truck as it moved down the street.

19 19. At all times Officer Ross' actions were objectively unreasonable in light of the facts
20 and circumstances confronting him and at no time did the Plaintiff pose an immediate threat to
21 the safety of Officer Ross nor to any other officer or person. No reasonable officer would have
22 behaved as Officer Ross behaved, i.e. fired his weapon into a vehicle where there was no
23 indication that the driver of the vehicle posed a risk of harm or threat to others in the vicinity.

24 20. At no time was the Plaintiff actively resisting arrest, nor did the Plaintiff take any
25 aggressive action towards Deputy Ross or make aggressive or threatening statements to Deputy
26 Ross.

27 21. The Plaintiff was not engaged in, nor had he engaged in any crime that would justify
28 the use of deadly force by Deputy Ross. At no time was deadly force necessary or justified.

40. Officer Ross' shooting Plaintiff was unwelcome.

41. At all times Plaintiff was frightened of and by Officer Ross and fearful he would be shot or otherwise battered by Officer Ross.

42. As a direct and proximate result of the above described unlawful and malicious conduct by Officer Ross, committed under color of law, Plaintiff suffered severe injury, pain and suffering, emotional distress, and property damage.

43. The acts of Officer Ross as described above were intentional, wanton, malicious and oppressive and made with reckless indifference to Plaintiff's rights thus entitling Plaintiff to an award of punitive damages against Officer Ross.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendant as follows:

1. For a declaratory and injunctive relief that the acts complained of herein are illegal and unconstitutional;
2. For actual and compensatory damages from Officer Ross, in an amount to be determined at trial;
3. For exemplary and punitive damages from Officer Ross in an amount to be determined at trial;
4. For attorney fees and costs incurred herein;
5. For nominal damages;
6. For leave to amend this Complaint as justice so requires; and
7. For such other and further relief as this Court may deem appropriate.

Respectfully submitted this Tuesday, January 5, 2016

By: Luke A. Busby

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JURY TRIAL DEMAND

The Plaintiff hereby demands a jury trial on all issues so triable.

Respectfully submitted this Tuesday, January 5, 2016

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Exhibit List

1. Affidavit of Amanda Ferguson

2. Affidavit of Jamie Holloway